

DANIEL JOHNSON, JR. (SBN 57409)  
MICHAEL J. LYONS (SBN 202284)  
DION M. BREGMAN (SBN 208393)  
MORGAN, LEWIS & BOCKIUS LLP  
2 Palo Alto Square  
3000 El Camino Real, Suite 700  
Palo Alto, CA 94306-2122  
Telephone: 650.843.4000  
Facsimile: 650.843.4001  
E-mail: djjohnson@morganlewis.com  
E-mail: mlyons@morganlewis.com  
E-mail: dbregman@morganlewis.com

Attorneys for Plaintiff  
PAYMENTONE CORPORATION

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

PAYMENTONE CORPORATION, a  
Delaware corporation,

Plaintiff,

v.

ZONG, INC., a Delaware corporation,

Defendant.

Case No. 3:11-cv-02186-CRB

**PAYMENTONE'S CLARIFICATION TO  
THE FURTHER JOINT STATUS UPDATE  
REGARDING CONSENT TO PROCEED  
BEFORE A UNITED STATES  
MAGISTRATE JUDGE**

Plaintiff PaymentOne Corporation (“PaymentOne”) hereby submits this Clarification to the parties’ October 21, 2011 Further Joint Status Update Regarding Consent to Proceed Before a United States Magistrate Judge. *See* Dkt. No. 36.

To avoid any ambiguity, PaymentOne clarifies that its compromise proposal to have the Honorable Charles R. Breyer select the United States Magistrate Judge to conduct all further proceedings in this case was expressly conditioned upon Defendant Zong, Inc.’s (“Zong”) agreement to the same. This proposal was expressly rejected by Zong.

Accordingly, PaymentOne clarifies that the parties remain unable to reach agreement on the particular Magistrate Judge to conduct all further proceedings in this case.

Dated: October 23, 2011

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By /s/ Dion M. Bregman

Dion M. Bregman

Attorneys for Plaintiff

PAYMENTONE CORPORATION